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5 IN THE CIRCUIT COURT FOR THE STATE OF OREGON

6 FOR THE COUNTY OF MULTNOMAH

7 BLANCA AGUIRRE,

8 Plaintiff,

9 vs.

10 PORT OF PORTLAND, a Municipal
11 Corporation, DOES 1 through 4,
12 POLLIN HOTELS II, LLC, an Oregon
13 limited liability company, doing business
14 as SHERATON PORTLAND AIRPORT
15 HOTEL, STARWOOD HOTELS &
16 RESORTS WORLDWIDE, LLC, a
foreign limited liability company doing
business as FOUR POINTS BY
SHERATON,

Defendants.

Case No. _____

COMPLAINT
(Negligence; Battery; Assault; Violations of
42 USC §1983; False Arrest; Defamation)

Claim Amount: \$600,000

(Not Subject to Mandatory Arbitration)

ORS 21.160(1)(c)

Jury Demand

17 Plaintiff alleges:

18 1.

19 At all material times hereto, Plaintiff Blanca Aguirre ("Plaintiff") was a resident of
20 California and traveling through Portland, Oregon.

21 2.

22 Defendant Port of Portland ("the Port") is a port district and municipal corporation of the

23
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1 State of Oregon with its principal place of business in the City of Portland, Multnomah County,
2 Oregon.

3. 3.

4 The Port owns and operates the Portland International Airport, located at 7000 NE
5 Airport Way, in Portland, Multnomah County, Oregon, as well as the Port of Portland police.

6. 4.

7 Defendants DOES 1 through 4 (“Officers DOE”) were employees of the Port of Portland
8 police and acting as law enforcement officers within the scope of their employment/agency and
9 acting under color of law.

10. 5.

11 Defendant Pollin Hotels II, LLC is an Oregon limited liability company, doing business
12 as Sheraton Portland Airport Hotel located at 8235 NE Airport Way in Portland, Oregon (“PDX
13 Sheraton”).

14. 6.

15 Defendant Starwood Hotels and Resorts Worldwide, is a foreign limited liability
16 company, doing business as Four Points by Sheraton located at 1919 NE 181st Avenue, Portland
17 Oregon, 97230 (“Four Points Sheraton”).

18. VENUE AND JURISDICTION

19. 7.

20 Venue and Jurisdiction is proper in this Court because the acts or occurrences giving rise
21 to this cause of action took place in the City of Portland, Multnomah County, Oregon.

22. ///

23.

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FACTUAL ALLEGATIONS

8.

3 Plaintiff is a small, Hispanic female whose first language is Spanish. Plaintiff has no
4 criminal convictions and, until the incidents described herein, had never been arrested. Plaintiff
5 does not use drugs or alcohol and was not under the influence of either during the incidents
6 described herein. Plaintiff presents as a respectable and law-abiding citizen.

9.

8 Late in the evening of October 24, 2017, Plaintiff was at the Portland International
9 Airport having missed her flight *en route* to her home in Palm Springs, California. Alternate
10 flights were unavailable and it was late in the day. Plaintiff searched for nearby hotels and
11 reserved a room at a Sheraton Hotel, reservation confirmation number 772273582.

12 || 10.

13 "Maria" a booking agent for Sheraton spoke with Plaintiff and assisted her with booking
14 a room at Four Points Sheraton. Plaintiff received an emailed confirmation of her reservation.

11

16 Plaintiff then waited for, and ultimately boarded, a Sheraton shuttle. The shuttle's first
17 and final stop was at PDX Sheraton. Everybody got off of the shuttle, except for Plaintiff. The
18 shuttle driver asked Plaintiff where she was headed. Plaintiff told the driver that her destination
19 was Four Points Sheraton. The driver asked whether Plaintiff had a reservation at Four Points
20 Sheraton and Plaintiff confirmed that she did. The shuttle driver placed a call by speakerphone
21 and the voice on the other end of the call stated that they did not have a record of Plaintiff's
22 reservation at Four Points Sheraton. Plaintiff showed the shuttle driver the hotel confirmation

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1 number on her cell phone. Despite the confirmation number, the shuttle driver was unable to
 2 confirm Plaintiff's reservation. Plaintiff alighted from the shuttle and entered the PDX Sheraton
 3 where the shuttle was parked.

4 12.

5 Inside PDX Sheraton's lobby, Plaintiff approached the concierge desk and spoke with an
 6 employee identified as "Dave". By then, Plaintiff had been able to get "Maria" back on the
 7 telephone and asked that Maria speak with Dave. Maria agreed to talk to Dave, so Plaintiff
 8 attempted to plug her cell phone charger into an outlet next to the concierge desk while handing
 9 the telephone to Dave to speak with Maria regarding the reservation.

10 13.

11 As Plaintiff went to plug her charger into the outlet, "Dave" suddenly and violently
 12 reacted and began yelling at Plaintiff. Dave was gesticulating in such a manner that Plaintiff
 13 feared for her safety. Plaintiff was shocked by this behavior and asked Maria (who was still on
 14 the telephone) to call the police. Maria stated that she was unable to do so; however, the police
 15 had been called and very shortly afterward arrived at PDX Sheraton.

16 14.

17 Officers DOE (four officers) entered the hotel lobby. They shouted at Plaintiff and told
 18 her to get off the phone. Plaintiff hung up the phone and attempted to present her identification
 19 when Officers DOE immediately, and without provocation, tackled Plaintiff to the ground.
 20 When Officers DOE forced Plaintiff's body to the ground, they caused her head, face, arm, and
 21 leg to impact the ground forcefully. Officers DOE remained on top of Plaintiff and kept her in a
 22 painful hold. While Plaintiff was on the ground, she pled for help to indifferent officers, hotel
 23

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1 staff, and third parties.

2 15.

3 Officers DOE then roughly picked up Plaintiff's body, pulled her outside, and threw her
4 into the back of a patrol car. Officers DOE did not read Plaintiff her *Miranda* rights; they did not
5 inform her of any charges against her. Officers DOE had excessively tightened the handcuffs on
6 Plaintiff to the point that they were digging into her wrists, and causing Plaintiff pain and
7 numbness. While in the back of the patrol car, Plaintiff was confused, crying, and having trouble
8 breathing. She asked one of the officers for water, to which the officer responded, "You're not
9 getting nothing." While waiting in the patrol car, terrified, and in pain, Plaintiff watched as
10 Officers DOE chatted and laughed with PDX Sheraton employees. When one of the officers
11 returned to the patrol car, he said, "Guess what? I'm reading you your rights." Plaintiff asked,
12 "Why?," and the officer responded that she was being charged with "Harassment."

13 16.

14 At some point, Plaintiff spoke with a Spanish speaking officer, and asked, in Spanish,
15 "Why did they attack me?" The officer responded with only a shrug.

16 17.

17 Officers DOE transported Plaintiff to the Port of Portland police station where she
18 complained of the pain and injuries that resulted from the handcuffs being too tight. Plaintiff
19 asked the Port for a doctor or nurse and an officer's response was, "Why?" Plaintiff explained
20 that several officers had physically attacked her, that they injured her, and that she thought the
21 officers wanted to kill her.

22 ///

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1 18.

2 Plaintiff attempted to lodge a complaint with Sgt. Stockbridge, but Sgt. Stockbridge
3 refused to issue a complaint file or number to Plaintiff. When Sgt. Stockbridge asked why she
4 should believe Plaintiff, Plaintiff showed Sgt. Stockbridge her injuries. Sgt. Stockbridge replied
5 that she still did not believe her. Plaintiff pleaded with Sgt. Stockbridge to review the video of
6 the incident, but the sergeant's response was simply that she would refer the matter to her
7 supervisors and, "they would decide what to do." Port employees also told Plaintiff that she
8 should not contact the District Attorney because, "They won't do anything for you."

9 19.

10 A nurse finally came to see Plaintiff. Plaintiff told the nurse that several officers had
11 attacked her. The nurse replied, "You can't say that." The nurse superficially treated Plaintiff's
12 wounds. The Port booked and released Plaintiff in the early hours of the morning with a
13 standard release agreement. The Multnomah County Sheriff's Office ("MCSO") issued a
14 property/money ledger and payment in the form of a check to Plaintiff in the amount of
15 \$2,233.60 (the amount of cash seized from her), which she was unable to access due to the time
16 of day. Plaintiff called an ambulance and informed the EMT staff of the officers' attack on her
17 during her transport.

18 20.

19 Multnomah County Health Department, Corrections Health staff noted on a Pre-Booking
20 Reception Emergency Response Record, at approximately 2:00 a.m., that Plaintiff complained of
21 injury to her head and right shoulder.

22 ///

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1 21.

2 Plaintiff presented to the Emergency Department at Oregon Health & Science University
3 (“OHSU”), where she underwent a CT scan of the cranium and was treated for head injury and
4 concussion, lumbosacral strain, thoracic strain, and shoulder sprain. Plaintiff had visible injuries
5 to her head, neck, face, chest, shoulder, arm, leg, foot, and ankle. On her release from OHSU,
6 Plaintiff made arrangements to travel back to Palm Springs and documented the events described
7 herein.

8 22.

9 By letter of November 20, 2017, counsel for Plaintiff contacted Multnomah County
10 Deputy District Attorney, Sean Hughey (“DDA Hughey”), and requested that the State dismiss
11 the charges against Plaintiff and that the State open an investigation into the conduct of the
12 arresting officers, Officers DOE. As of the date of this complaint, Plaintiff does not know
13 whether the State initiated an investigation.

14 23.

15 At the outset of the case charging Plaintiff with a crime, Multnomah County Circuit Case
16 No. C17-CR-74639, the District Attorney declined to prosecute the “harassment” charge and
17 ultimately moved to dismiss the “interfering with a police officer,” charge “in the interest of
18 justice.” The court dismissed the charge and the case against Plaintiff was closed on January 5,
19 2018, without further action.

20 24.

21 As a result of Officer DOES’ assault and use of excessive force on Plaintiff, she has had
22 to seek and receive treatment for the injuries referenced herein, including her right arm, shoulder,
23

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1 chest, and back. Plaintiff has also sought and received counseling for the emotional trauma she
2 experienced.

3 25.

4 Since the events alleged herein, Plaintiff has also experienced extreme post-traumatic fear
5 and panic. Plaintiff has not driven since the incident out of fear and anxiety caused by the
6 incidents described herein. As a result of the incidents described herein, Plaintiff has lost work
7 and income, and she continues to suffer pain, loss of sleep, and interruption to her normal daily
8 activities.

9 TORT CLAIM NOTICE

10 26.

11 Pursuant to ORS 30.275, Plaintiff timely served written Tort Claim Notice of her claims
12 upon Defendant Port of Portland.

13 FIRST CLAIM FOR RELIEF - AGAINST PORT OF PORTLAND

14 (Negligence)

15 27.

16 Plaintiff re-alleges and incorporates paragraphs 1 though 26 herein.

17 28.

18 Defendant Port of Portland, by and through its employees and/or agents acting under
19 color of law, had a duty to avoid unnecessary harm to the persons they are sworn to protect.
20 Defendants failed to use the degree of care and judgment that would have been used by
21 reasonably careful officers to avoid harming someone when Defendant Port of Portland's
22 employee(s)/agent(s) suddenly, and without warning, tackled, knocked over, and forcefully

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1 restrained Plaintiff with violence and force sufficient to cause injury severe enough to require
2 immediate and continued medical treatment.

3 29.

4 As a direct, proximate and foreseeable result of Defendants' negligent conduct, as
5 described in the paragraphs above, Plaintiff incurred economic damages in the amount of
6 \$100,000 in the form of medical bills and lost income, and non-economic damages in an amount
7 not to exceed \$500,000 in the form of pain, mental suffering, emotional duress, humiliation,
8 severe inconvenience, and substantial interference with her activities of daily living.

9 SECOND CLAIM FOR RELIEF - AGAINST PORT OF PORTLAND

10 (Battery)

11 30.

12 Plaintiff re-alleges and incorporates paragraphs 1 though 29 herein.

13 31.

14 Defendant Port of Portland, by and through its employees and/or agents acting under
15 color of law, intentionally caused harmful and offensive contact to Plaintiff when they applied
16 substantially more physical force to Plaintiff's body than reasonably necessary to arrest or detain
17 Plaintiff.

18 32.

19 As a direct and proximate result of Defendants' tortious conduct, as described in the
20 paragraphs above, Plaintiff incurred economic damages in the amount of \$100,000 in the form of
21 medical bills and lost income, and non-economic damages in an amount not to exceed \$500,000
22 in the form of pain, mental suffering, emotional duress, humiliation, severe inconvenience, and

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1 substantial interference with her activities of daily living.

2 THIRD CLAIM FOR RELIEF - AGAINST PORT OF PORTLAND

3 (Assault)

4 33.

5 Plaintiff re-alleges and incorporates paragraphs 1 though 32 herein.

6 34.

7 Defendant Port of Portland, by and through its employees and/or agents acting under
8 color of law, caused Plaintiff to reasonably fear imminent harmful or offensive physical contact
9 with Plaintiff's person when they engaged in the conduct described in the paragraphs above.

10 35.

11 As a direct and proximate result of Defendants' tortious conduct, as described in the
12 paragraphs above, Plaintiff incurred economic damages in the amount of \$100,000 in the form of
13 medical bills and lost income, and non-economic damages in an amount not to exceed \$500,000
14 in the form of pain, mental suffering, emotional duress, humiliation, severe inconvenience, and
15 substantial interference with her activities of daily living.

16 FOURTH CLAIM FOR RELIEF - AGAINST PORT OF PORTLAND

17 (Count 1 - False Arrest)

18 36.

19 Plaintiff re-alleges and incorporates paragraphs 1 though 35 herein.

20 37.

21 Defendant Port of Portland, by and through its employees and/or agents acting under
22 color of law, intentionally and without facts sufficient to cause a reasonable person to believe
23

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1 that Plaintiff committed a crime, restrained Plaintiff's liberty when they tackled her, held her to
2 the ground, handcuffed her, and placed her in a locked patrol car.

3 38.

4 As a direct, proximate and foreseeable result of Defendants' tortious conduct, as
5 described in the paragraphs above, Plaintiff incurred economic damages in the amount of
6 \$100,000 in the form of medical bills and lost income, and non-economic damages in an amount
7 not to exceed \$500,000 in the form of pain, mental suffering, emotional duress, humiliation,
8 severe inconvenience, and substantial interference with her activities of daily living.

9 (Count 2 - Negligent False Arrest)

10 39.

11 Plaintiff re-alleges and incorporates paragraphs 1 though 38 herein.

12 40.

13 Defendant Port of Portland, by and through its employees and/or agents acting under
14 color of law, had a duty to conduct a reasonable investigation and to have facts sufficient to
15 cause a reasonable person to believe that Plaintiff committed a crime prior to arresting Plaintiff.
16 Defendant breached that duty when its officers tackled Plaintiff, held her to the ground,
17 handcuffed her, and placed her in a locked patrol car without probable cause or a substantial
18 objective basis to believe that Plaintiff committed a crime, as described in the paragraphs above.

19 41.

20 As a direct, proximate and foreseeable result of Defendants' tortious conduct, as
21 described in the paragraphs above, Plaintiff incurred economic damages in the amount of
22 \$100,000 in the form of medical bills and lost income, and non-economic damages in an amount

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1 not to exceed \$500,000 in the form of pain, mental suffering, emotional duress, humiliation,
2 severe inconvenience, and substantial interference with her activities of daily living.

3 FIFTH, SIXTH, SEVENTH, AND EIGHTH CLAIMS FOR RELIEF -

4 AGAINST DOES 1- 4

5 (42 USC §1983 – Fourth Amendment)

6 42.

7 Plaintiff re-alleges and incorporates paragraphs 1 though 41 herein. Pursuant to 42
8 U.S.C. § 1983, any person who “under color of any statute, ordinance, regulation, custom, or
9 usage, of any State … subjects, or causes to be subjected, any citizen of the United States … to the
10 deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be
11 liable to the party injured in an action at law, suit in equity, or other proper proceeding for
12 redress....”. At all times material hereto, Defendant acted or purported to act under color of law,
13 statutes, ordinances, regulations, or customs.

14 43.

15 Plaintiff has a Fourth Amendment right to be secure in her person from unreasonable
16 seizure. DOES 1 through 4, acting under color of law, violated Plaintiff's right to be free from
17 unreasonable seizure when they restrained Plaintiff of her personal freedom and ability to move
18 about freely when said seizure was objectively unreasonable in light of the facts and
circumstances, as described in the paragraphs above.

19 44.

20 As a direct, proximate and foreseeable result of all claims for relief alleged herein,
21 Plaintiff incurred economic damages in the amount of \$100,000, and non-economic damages in
22 the form of pain, mental suffering, emotional duress, humiliation, severe inconvenience, and

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1 substantial interference with her activities of daily living in the amount of \$500,000. Plaintiff
2 demands her attorney fees, costs, and disbursements pursuant to 42 USC § 1988.

3 NINTH CLAIM FOR RELIEF - AGAINST DEFENDANT PDX SHERATON

4 (Assault)

5 45.

6 Plaintiff re-alleges and incorporates paragraphs 1 though 44 herein.

7 46.

8 Defendant PDX Sheraton, by and through its employees and/or agents, caused Plaintiff to
9 reasonably fear imminent harmful or offensive physical contact with Plaintiff's person when they
10 engaged in the conduct described in the paragraphs above.

11 47.

12 As a direct and proximate result of Defendants' tortious conduct, as described in the
13 paragraphs above, Plaintiff incurred economic damages in the amount of \$100,000 in the form of
14 medical bills and lost income, and non-economic damages in an amount not to exceed \$500,000
15 in the form of pain, mental suffering, emotional duress, humiliation, severe inconvenience, and
16 substantial interference with her activities of daily living.

17 TENTH CLAIM FOR RELIEF- AGAINST DEFENDANT PDX SHERATON

18 (Defamation)

19 48.

20 Plaintiff re-alleges and incorporates paragraphs 1 though 47 herein.

21 49.

22 "Dave" while acting within the scope of his employment with Defendant PDX Sheraton,
23

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1 made false and defamatory statements concerning Plaintiff to Officers DOE. The statements
2 made by "Dave" to Officers DOE had the tendency to injure Plaintiff because the statements
3 indicated that Plaintiff had committed a crime by allegedly harassing the hotel staff.

4 50.

5 Upon information and belief, Officers DOE understood that the statements were about
6 Plaintiff as the statements were made of, concerning, and mentioned Plaintiff expressly. The
7 statements made by "Dave" were entirely false and defamatory and exposed Plaintiff to arrest
8 and ultimately, physical injury by the police.

9 51.

10 As a direct and proximate result of "Dave's" defamatory publication, as described in the
11 paragraphs above, Plaintiff has incurred economic damages in the amount of \$100,000 in the
12 form of medical bills and lost income, and non-economic damages in an amount not to exceed
13 \$500,000 in the form of pain, mental suffering, emotional distress, humiliation, severe
14 inconvenience, and substantial interference with her activities of daily living.

15 ELEVENTH CLAIM FOR RELIEF - AGAINST DEFENDANT FOUR POINTS SHERATON

16 (Assault)

17 52.

18 Plaintiff re-alleges and incorporates paragraphs 1 though 51 herein.

19 53.

20 Defendant Four Points Sheraton, by and through its employees and/or agents, caused
21 Plaintiff to reasonably fear imminent harmful or offensive physical contact with Plaintiff's
22 person when they engaged in the conduct described in the paragraphs above.

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1 54.

2 As a direct and proximate result of Defendant's tortious conduct, as described in the
3 paragraphs above, Plaintiff has incurred economic damages in the amount of \$100,000 in the
4 form of medical bills and lost income, and non-economic damages in an amount not to exceed
5 \$500,000 in the form of pain, mental suffering, emotional distress, humiliation, severe
6 inconvenience, and substantial interference with her activities of daily living.

7 55.

8 WHEREFORE, Plaintiff requests the following for her claims for relief:

9 1. Economic damages in the amount of \$100,000;
10 2. Non-economic damages in the amount of \$500,000;
11 3. Any other relief this Court deems just and equitable.
12 4. Reasonable attorney fees, costs, and disbursements pursuant to 42 U.S.C. § 1988
13 for Plaintiff's Fifth, Sixth, Seventh, and Eighth Claims.

14 DATED this 10th day of September 2018.

15
16 s/ R. Grant Cook
17 R. Grant Cook, OSB#062064
18 gcook@lafky.com
19 LAFKY & LAFKY
20
21
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23
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